

Application Serial Number 10/550,875  
Response to Office Action  
Dated October 20, 2006

**3. Amendments to the Drawings**

The attached drawing sheet(s) include proposed changes to FIG. 4. Specifically, labels are included in blocks 11, 12 and 13. These changes add no new matter.

Acceptance of amended Fig. 4 is earnestly solicited.

Attachment: Replacement Sheet 1/2.

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### **REMARKS / DISCUSSION OF ISSUES**

Claims 1-11 are presently under consideration. Claims 1, 9, 10 and 11 are independent claims.

Applicants gratefully acknowledge the indication of receipt of all certified copies of the priority documents.

#### **Objection to the Specification**

Applicants have amended the specification to include the claim of priority under 35 U.S.C. § 371.

Applicants have reviewed the objections to the specification for not including an abstract and section headings.

With regard to the abstract, Applicants note that the abstract of the international application suffices for the abstract in the present national stage thereof. Applicants respectfully submit that because the abstract complies with PCT Rule 8, the abstract of the international application suffices. Withdrawal of this objection is respectfully requested.

With regard to section headings, Applicants submit that the headings are not required and direct the Examiner to MPEP § 608.01(a), which notes, inter alia, that the guidelines therein illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the Applicant's use. Thus, there is no requirement to include headings. Applicant respectfully requests that this objection is improper and should be withdrawn.

#### **Amendments to the Drawings and the Specification**

The amendments to the drawings address the objections thereto raised in the Office Action. As such, these objections are believed to be moot.

The amendments to the specification include a reference to the international application upon which the present application is based. The amendments beginning on

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page 7 are made to correct an error to the reference characters of Fig. 4. Specifically, reference character 12 inadvertently referred to two components.

No new matter is added. Entry of these amendments is earnestly solicited.

#### Rejections Under 35 U.S.C. § 112, ¶2

The Office Action rejects claim 1 based on the referenced section of the code. However, the rejection does not provide any specific basis for the rejection. Applicants cannot meaningfully respond to this rejection as a result. Accordingly, Applicants respectfully submit that this rejection is improper and should be withdrawn.

#### Rejections under 35 U.S.C. § 102

Claims 1-11 are rejected under 35 U.S.C. § 102(b) as being unpatentable in view of *Kelly, et al.* (U.S. Patent 6,650,258). For at least the reasons set forth herein, Applicants respectfully submit that this rejection is improper and should be withdrawn.

Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

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Claim 1 is drawn to a sample rate converter for converting an input sample rate of a signal into an output sample rate. The sample rate converter includes a sample rate adapter for, *in response to a control signal having a first value*, adapting an intermediate sample rate such that *the output sample rate is larger than the input sample rate*, and for, *in response to a control signal having a second value*, adapting the intermediate sample rate such that *the output sample rate is smaller than the input sample rate*.

Claims 9, 10 and 11, which are drawn to a method, a computer program and an apparatus, respectively, each include similar features.

Applicants respectfully submit that the applied art fails to disclose the noted features if claims 1, 9, 10 and 11 for at least the reasons set forth herein.

The Office Action initially turns to Fig. 1 of *Kelly, et al.* in the rejection. This drawing is described at column 6, lines 24-27. A CIC decimator 100 is briefly described, but there is no disclosure of an **intermediate sample rate**, or of a control signal having a **second value**, adapting the intermediate sample rate such that the output sample rate is **smaller than the input sample rate**.

Next, the Office Action turns to Fig. 11 of *Kelly, et al.* in the rejection. This drawing is described primarily at column 7, lines 7-40 of the reference. Fig. 11 shows a sample rate converter 1101, and interpolation and filtering in blocks 1102, 1108 and 1103. In each block there is a prescribed interpolation, dependent on the voice mode of selected. Moreover, a frequency sigma-delta modulator 1106 facilitates downsampling. However, there is no disclosure of the selective sample rate depending on a value of a control signal as specifically recited in claims 1, 9, 10 and 11.

The Office Action turns next to column 3, lines 2-6 and 16-20 of *Kelly, et al.* in the rejection. These portions of the reference describe downsampling and upsampling of an input data stream. However, although these portions of the reference to *Kelly, et al.* may disclose alteration of the upsampling and downsampling rates, there is again no description of *a control signal having a first value*, adapting an intermediate sample rate such that *the output sample rate is larger than the input sample rate*, and for, *in response*

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*to a control signal having a second value, adapting the intermediate sample rate such that the output sample rate is smaller than the input sample rate.*

For at least the reasons set forth above, Applicants respectfully submit that claims 1, 9, 10 and 11 are patentable over the applied art. Moreover, claims 2-8, which depend from claim 1, are patentable for at least the same reasons.

### Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

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Respectfully submitted on behalf of:

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Date: March 20, 2007

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Attachment: One (1) Replacement Sheet of Drawings